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ISSUE-BY-ISSUE SUMMARY  
OF MAY 26, 1994 HEARING REGARDING  
THE COUNCIL FOR TOBACCO RESEARCH ("CTR")<sup>1</sup>

This memorandum summarizes the May 26, 1994 hearing conducted by the House Energy and Commerce Committee, Subcommittee on Health and the Environment. The only witness at the hearing was Dr. James Glenn, Chairman, Council for Tobacco Research. Members of the Subcommittee in attendance were Chairman Waxman, Rep. Bliley, Rep. Synar, Rep. Wyden, Rep. McMillan and Rep. Greenwood.

Except for the opening statements, the hearing is summarized on an issue-by-issue basis. We also summarize the documents requested from the CTR and the exhibits presented at the hearing at the conclusion of the memorandum.

I. OPENING STATEMENTS

A. Rep. Waxman

- o Waxman described the Council for Tobacco Research ("CTR") as a "public relations play [sic], a seemingly independent research body whose real purpose was to promote the idea that smoking is safe." He rejected the Council's assertion that its purpose was to independently and objectively research questions of tobacco use and health. (p. 2)
- o Waxman accused CTR of shielding potentially adverse results under the caption "special projects." He also alleged that the attorney-client privilege was intentionally (and, by implication, inappropriately) used to guard against unwanted disclosures. (p. 2)
- o Waxman said he was committed to "lifting the veil of secrecy that has surrounded research programs of the tobacco industry." (p. 3)

<sup>1</sup> All pages references in this memorandum are to the unofficial transcript of the hearing provided by Federal Information Systems Corporation.

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B. Rep. Bliley

- o Bliley described CTR as a "private, nonprofit organization that uses funds from the tobacco industry to support research into questions of tobacco use and health." He said that an organization does not promote tobacco use simply because it does not attempt to drive the tobacco industry out of business. (p. 3)
- o Bliley introduced two charts. Chart 1 showed that the New York Times ran a page 1 story detailing "admissions about the relationship between smoking and health" allegedly contained in Brown & Williamson documents. Chart 2 showed that three weeks later the Times buried a retraction, explaining that the quoted statements were not company admissions but company predictions of what the Surgeon General's Report would say, at the bottom of page 2. (pp. 3-4).
- o Bliley chided Waxman for not sharing documents used to prepare for the hearing with the Minority staff at all or until the last minute. (Waxman denied these charges.) (p. 4)

C. Rep. Synar

- o Synar accused the CTR of (1) "bullying" scientists into reporting that cigarettes are less dangerous than earlier studies indicated; and (2) refusing to publish studies not to the tobacco companies' liking. (p. 5)
- o Synar also claimed the CTR was structured so that it could protect research results under the attorney-client privilege. In his view, the privilege does not "protect attorneys who squelch findings of cigarettes causing cancer in rats, nor does it protect attorneys who false [sic] deny the health hazards of smoking to Congress." Synar vowed to continue investigating the methods allegedly used by tobacco industry attorneys, over the past 30 years, to shield their clients' conduct from public scrutiny. (p. 5)

D. Rep. McMillan

- o McMillan accused the Subcommittee of "beating the tobacco industry into the ground without apparent

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legislative purpose" and engaging in a "PR extravaganza." (pp. 6, 8)

- o McMillan questioned the purpose of the hearing given that legislation restricting smoking in public places had already passed. He asked whether Waxman intended to address specific legislation, and if so, what legislation that would be. McMillan said the Subcommittee should be working on other issues, e.g., the Safe Drinking Water Act, health care reform. He also noted that the poor attendance by Subcommittee members at the hearing signalled their lack of interest in the subject. (p. 6)
- o McMillan asked whether the Hill and Knowlton documents distributed by Waxman to the Subcommittee included everything in Hill and Knowlton's files or whether they were selected for a specific purpose. (pp. 6-7)
- o McMillan noted the irony of holding a hearing concerning the alleged inappropriate involvement of CTR attorneys in scientific research decisions before a congressional Subcommittee comprised primarily of attorneys. (p. 8)
- o In response to McMillan, Waxman argued that the Subcommittee has a right to lift the "veil of secrecy" the industry has used to persuade the public to disregard scientific information about the dangers of tobacco. He also said that the hearings were necessary to get answers to questions the industry has been unwilling to answer in any other forum (e.g., in response to questions posed by a "responsible press.") In addition, he reminded McMillan that 2 bills are currently pending -- the Synar bill and the Waxman bill. (p. 7)

E. Rep. Wyden

- o Wyden described the hearings as an effort to save lives and improve the health of the American people. He said that the Subcommittee was following up on recommendations from major medical groups, as elected officials should. (p. 8)
- o Wyden read the following excerpt from a February 11, 1993 Wall Street Journal article: "Sponsored by U.S. tobacco companies and long run

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behind the scenes by tobacco industry lawyers, the ostensibly independent Council has spent millions of dollars advancing sympathetic science." Wyden also read a quote from former CTR employee, Dorothea Cohen, who said that CTR is "just a lobbying thing. We were lobbying for cigarettes." (p. 9)

## II. STATEMENT OF DR. JAMES GLENN

Dr. Glenn gave a very brief prepared statement, under oath, then answered a series of questions. His statement is summarized below.

### A. Glenn's Credentials

- o Glenn has held important positions (e.g., dean of a medical school) at a variety of prestigious institutions (e.g., Yale, Duke, Emory). In addition to his position as Chairman, President and Chief Executive Officer of the CTR, he is currently Chief of Staff of the University (of Kentucky) Hospital and its Dean for Clinical Affairs. He was recently the Director of the Lucille P. Markey Cancer Center at the University of Kentucky. (pp. 11-12)

### B. Structure and Function of the CTR

- o Glenn described the CTR as a private, nonprofit organization that sponsors research into questions of tobacco use and health. The Council was founded in 1954 as the Tobacco Industry Research Committee. It presently awards approximately \$20 million per year and has awarded more than \$220 million over the years. To date, it has funded some 1,380 projects by approximately 1,000 biomedical investigators. (p. 12)
- o Glenn stated that the CTR has a Scientific Advisory Board (the "Board") that consists of 15 distinguished biomedical scientists from the U.S. and Canada. The Board invites about 50 percent of the scientists from whom it receives inquiries to submit full grant applications. Ultimately, the CTR funds about 12 percent of its applicants, approximately the same percentage of applicants that receive funding from NIH. (pp. 14-15)

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- o A number of CTR projects have been co-funded by other agencies, including NIH and its affiliate, the National Cancer Institute, the American Cancer Society, the American Lung Association, and the American Heart Association. (p. 13)

**C. Public Relations Charge**

- o Glenn disputed the charge that the CTR is a public relations ploy for the tobacco industry. He said the Council had not responded to press accounts because it did not want to feed the perception that it serves a public relations function. Glenn stressed the fact that scientific studies supported by the CTR are conducted independently and without regard to whether the results will be favorable or unfavorable to the industry. (p. 12)

**D. CTR's Research Program/Research Accomplishments**

- o Glenn stated that the Council's key areas of interest are cancer, cardiovascular diseases, cellular, molecular and developmental biology. The CTR also funds research into areas of genetics, immunology and the neurosciences. (p. 13)
- o Glenn identified three major scientific breakthroughs sponsored by the Council:  
(1) Dr. Stanley Cohen, a subsequent Nobel Laureate, identified epithelial growth factor as a key to understanding cell regulation; (2) Dr. Alfred Knudsen developed the two-hit theory of cancer development, which led to identification of the gene that causes a lethal cancer of the eye in children; and (3) Dr. Henry Lynch developed a "library" of familial cancers. (p. 15)
- o Glenn said that grantees are encouraged to publish their results in peer-reviewed journals. In fact, more than 5,000 articles have been published based on CTR-sponsored research. (p. 14)

**E. Allegations of Company Influence**

- o According to Glenn, the industry exercises no control over the Council's activities, including the granting of funds for basic research. "The Council has never directed any research into special programs and special projects for the purpose of suppressing research." (p. 12)

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### III. QUESTION AND ANSWER SESSION WITH DR. GLENN

#### A. Glenn's Credentials

- o When Synar asked what a urologist knows about tobacco research, Glenn explained that he was a medical administrator and a scientist and, therefore, qualified to administer a research program. (p. 59)
- o Synar highlighted the fact that Glenn's predecessor, William D. Hobbs, was a former officer of R. J. Reynolds Tobacco Company; not a physician. (p. 59)

#### B. Structure and Function of the CTR

- o Glenn told Waxman that the CTR is a not-for-profit organization with a current budget of \$19,550,000. The money comes from the five major sponsor companies and is divided among them on a market share basis. Waxman asked Glenn to submit to the committee the actual dollar amounts received from each company in 1994. He also asked for all past budgets and the share each company paid for each year of the organization's existence. (pp. 45-46)
- o Glenn explained that research funding decisions are made by the Scientific Advisory Board (the "Board"). According to Glenn, the Board functions like a study section of a federal agency. Glenn told Waxman he was unfamiliar with any "Scientific Liaison Committee." (p. 47)
- o At Bliley's request, Glenn listed the 15 members of the Scientific Advisory Board and the background of each. (pp. 20-21)
- o Waxman asked who worked for or under contract to the CTR. Glenn stated that none of the employees are legal staff. He said that, not counting the Scientific Advisory Board, six of the employees (including Glenn) are physicians and scientists. Waxman asked Glenn to provide the past and present personnel roster with divisions by areas of job responsibility for each year from '54 to the present. (p. 48)

2025768043

C. CTR's Publication Policies

- o Glenn told Bliley that the CTR encourages its investigators to publish. In his words, "we have never discouraged publication." He cited as an example an exchange with Dr. Edward Campbell of the University of Utah, in which Campbell asked whether he should publish results suggesting that some emphysema may be caused by a genetic defect. The CTR encouraged Dr. Campbell to publish his results. (p. 23)
- o Glenn told Greenwood that grantees all receive an award letter, which includes a paragraph encouraging them to publish their results. Greenwood asked Glenn to make a copy of such letters available to the committee. (pp. 35-36)
- o Greenwood asked about allegations in the Wall Street Journal that Dr. Hamburger [sic] was told that his funding would end if he used the term cancer in his publications. According to Glenn, Hamburger's work was very "non-productive." It only produced a superficial change in the epithelium of the lung, never any tumors. He was told not to use the term cancer because the Board could not confirm that he had induced any cancers. The Scientific Advisory Board declined to extend his funding. Glenn indicated that Hamburger was bitter over the loss of funding. (p. 37)

D. CTR's Grant Procedures

- o In response to a question from Greenwood, Glenn explained that grant money is intended to support personnel, such as lab technicians, the purchase of supplies, experimental animals, publication costs and so forth. Glenn said that "it is unusual for an investigator to receive any or even a significant part of their salary from the grant." Glenn told Waxman that grant money goes directly from the CTR to the institutions that employ grantees. No grantees or contractors are paid by CTR or by individual tobacco companies. This is the same process the NIH uses. (pp. 36-37, 47)
- o Greenwood questioned Glenn about the usual size of CTR grants. He asked about a report that two researchers had received grants worth \$1 million or more. Greenwood also asked whether the organization attempted to keep grants at a level

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that would encourage scientists to accept grants from other sources. According to Glenn, the average CTR grant is \$75,000-\$80,000 per year for three years. Some important projects (e.g., the study of familial cancers) have, however, been given prolonged funding, which accounts for the large sums of money. (p. 36)

**E. The Microbiological Associates Contract**

- o Greenwood asked whether CTR provided any funds pursuant to contract. Glenn said that there had been a major contract with Microbiological Associates ("MA"), but that CTR no longer provides funding on a contract basis. The MA contract was not renewed because it was unsuccessful. (Apparently, MA spent several million dollars exposing laboratory animals directly to tobacco smoke in an effort to produce tumors.) (p. 38)
- o Greenwood asked whether MA was to direct its own research or publish its own results. Glenn said that the contract did not restrict such activities. One major and perhaps some minor publications resulted from the MA research. Greenwood asked Glenn to submit a copy of the MA contract. (p. 38)
- o Greenwood asked whether the decision to discontinue funding for MA was made by lawyers (as suggested by the Wall Street Journal article) or by the Council. Glenn denied any personal knowledge but implied that the Scientific Advisory Board had made the decision. Glenn denied any direct knowledge of the role, if any, Jacob Menninger [sic] lawyers played in the decision not to renew the MA contract. (pp. 38-39)

**F. CTR's Records**

- o Wyden questioned Glenn about the CTR's information storage and retrieval system. Glenn indicated that CTR stores interim reports from investigators and any papers that are published for indefinite periods of time. According to Glenn, the CTR does not maintain a file of laboratory journals or manuals. (p. 60)
- o Wyden asked about access to the stored materials. When Glenn said that access is open to anyone, Wyden asked whether the Washington Post, Wall Street Journal or New York Times could come look

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through CTR files. Glenn said he would have to ask counsel whether that was appropriate. (pp. 60-61)

- o Wyden asked whether the Committee could come and see the files. After reminding Wyden that he would be providing the Committee with all the information it wants, Glenn told Wyden he was welcome to come review the files. (p. 61)

G. CTR's Research Program

1. Charge That CTR-Sponsored Research Does Not Relate to Tobacco

- o Synar alleged that most CTR-funded projects do not and did not relate to the health consequences of smoking. As evidence, he cited an article in the July 1991 issue of the American Journal of Public Health (Ex. 19). He also quoted Dr. Michael Brennan, who said in a BBC documentary, "Pack of Lies," that "very little of the CTR's research is related to determining the relationship of smoking to ill health." According to Dr. Brennan, "certainly less than one-tenth of the funds awarded are awarded for the scientific study of tobacco-related effects." Synar also noted that only about 10% of the 296 studies in the CTR's 1993 report were directly related to tobacco. (pp. 29-31)
- o Synar asked whether CTR had ever "conducted or financed research that has found that smoking cigarettes or using oral tobacco increases the likelihood of a person getting lung cancer or heart disease?" Glenn said yes. Synar and Waxman demanded a list of all such projects. (p. 32)
- o Waxman asked what percentage of CTR research and what percentage of CTR research funds involved projects directly relevant to the health hazards of smoking. He also asked Glenn to provide this information for each past year. Glenn said that all of CTR's research is relevant to that issue. According to Glenn, the CTR funds research into fundamental questions that must be answered in order to address questions of therapy and social habits. He said that CTR-funded researchers have produced results that suggest connections or possible connections between smoking and disease. (pp. 48-49, 52)

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- o Synar asked whether the three Nobel Prize winners sponsored by the Council had done research on tobacco or how it affects health. After a back and forth regarding Synar's question, Glenn said that it was "naive." Synar instructed Glenn to provide copies of the papers published by the Nobel Prize winners in the area of tobacco and how it affects health, for the record. (Due to the disagreement between Glenn and Synar as to whether fundamental research into basic cellular and molecular biology is tobacco and health related or not, it is unclear whether Glenn was obligated to provide these papers.) (pp. 28-29)
- o Glenn said that CTR had spent millions of dollars on studies exposing experimental animals directly to tobacco smoke, but such studies were unrewarding. Now, Glenn told Waxman, the mission of CTR is to elaborate "fundamental mechanisms of disease, and we have found that the specific research into exposing animals to cigarette smoke is superficial and non-productive." According to Glenn, CTR-funded research is intended to identify which people are subject to which diseases so that their genetic structure can be altered or they can be advised about risk factors that predispose them to certain diseases. (pp. 45, 52)
- o Glenn refuted Wyden's charge that CTR was biased because it had not funded any papers showing a causal relationship between tobacco and lung cancer. (p. 41)

## 2. Nicotine Addiction

- o Synar asked whether the CTR "conducted or financed research that has found that nicotine is addictive or has an addictive quality to it?" Glenn said that many CTR-supported researchers had established the "habituation of nicotine"; none established that is addictive. (p. 33)
- o Glenn told Synar that Dr. Jerome Jaffe, Director of the Addiction Center at the National Institute of Drug Abuse, told the CTR's Scientific Advisory Board in 1989 that he was "unable to assign properties of addiction, as they are classically defined, to nicotine." (p. 33)
- o According to Glenn, nicotine and nicotine analogues, derived from various foods, are

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"critical to normal neurofunction in the human being." He noted that a conference going on in Washington, as he testified, was addressing nicotine and nicotinic receptors. (p. 33)

- o Synar asked why CTR does not sponsor nicotine analogue research or other nicotine research given that board member, Dr. Leo Abud (sp.), has the background to evaluate and supervise such research. Glenn said that CTR has sponsored a great deal of research on nicotine and nicotine analogues. (p. 57)
- o Synar requested all reports and studies with respect to nicotine and its addictiveness. Waxman asked Glenn to provide details of all studies that showed nicotine is habituating and also the studies themselves. (pp. 33-34)

#### H. Special Projects

- o Glenn described special projects as projects selected by the sponsor companies because they deemed them worthy. He said that CTR knew the nature of each project, but the projects did not go through CTR's granting process nor were they funded out of CTR's research budget; CTR was simply the administrative servicing agent. According to Glenn, the money to fund special projects came from the industry, not CTR. Glenn could not explain why the tobacco companies used CTR as an intermediary. (pp. 49-50, 52)
- o Glenn told Bliley that CTR's scientific director reviewed special projects for scientific accuracy and methodology. Beyond that, the CTR served merely as the funding agency. (p. 24)
- o Wyden asked whether special projects documents were considered part of CTR files. Glenn did not answer the question but agreed to turn over any documents in the CTR files relating to special projects. That satisfied Wyden. (p. 67)
- o Waxman requested the following documents concerning special projects: (1) a list of all the special projects and a copy of the research results; (2) any correspondence between CTR and the tobacco companies and/or the researchers regarding any of these special projects; (3) the dollar amount spent on each of the special projects; (4) the

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itemization of whether and where each special project was published, or if it was published at all; and (5) any other documents in your possession related to special projects. (p. 61)

- o Glenn said that some 250 peer-reviewed articles were published as a result of various special projects. He said that the recipients of special project money were required to acknowledge in their publications that the work was a special project funded through the Council for Tobacco Research. Glenn said that the publications did not credit the company that gave the money because in many instances, several of the companies jointly funded the projects. Bliley noted that many special project researchers also received funds from other sources, i.e., the federal government. (pp. 24, 51)
- o Bliley asked Glenn to submit a list of all publications and presentations that are believed to have resulted from CTR's special projects. Waxman then asked for a list of all the research funded under the special projects. (pp. 24-25)
- o Bliley noted that special projects documents were produced to plaintiffs' counsel during discovery in certain litigation. (p. 25)

**I. Allegations of Company Involvement**

- o Glenn emphasized that CTR is an independent agency, with the respect of medical investigators and institutions across the country and throughout the world. Glenn touted the Council as a good source of funding, "particularly for young people with fresh new ideas and approaches to the questions of basic biomedical investigation that are so fundamental to our understanding of cancer, cardiovascular disease and others." (p. 22)
- o Glenn told Bliley that the member companies "have never attempted to influence our activities in any way, to my knowledge." (p. 21)
- o Bliley referred to a report on privileged documents prepared by special master, Joel A. Pezzono, who was appointed by Judge Sarokin in the Cippolone or Haines case. That report said that CTR-funded research projects were conducted by "independent scientists affiliated with a variety of academic

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and research institutions who were not employed by or related to the tobacco industry. These researchers were permitted to publish the results of their research with credit given to the CRT." (pp. 23-24)

J. Lawyers' Role in the CTR

- o Wyden asked whether lawyers from any of the tobacco companies that fund CTR's research ever attempted to exert influence on research progress. Glenn said "No sir." (p. 44).
- o Waxman suggested that lawyers reviewed and approved CTR's special projects. He introduced a series of letters from scientists to industry lawyers, including Shook, Hardy, seeking research grants. These were contained in Ex. 18. Waxman then produced Ex. 16, which was a list of CTR special projects. Exhibit 16 showed, among other things, that one investigator who wrote to Shook, Hardy (Dr. Eleanor Macdonald) received precisely the grant she requested. Glenn denied seeing the letters before. According to him, it is not surprising that attorneys would contract with or recommend a contract with a particular investigator. He said that the Scientific Advisory Committee did not review Dr. McDonald's application because it was a special project and, therefore, outside the Board's purview. (pp. 49-50)
- o Synar asked repeatedly about CTR's legal representation. Glenn explained that the Council has no in-house counsel, only outside counsel, Debevoise & Plimpton. Glenn said that outside counsel do not review research results before they are announced; they see the results afterwards, if at all. Glenn said he did not know whether counsel reviewed research results prior to release in the past but that he thought not. Synar replied "your memory is very selective today." (pp. 54-56)
- o Waxman asked what the Committee of Councils [sic] is. He asked whether it existed and whether it functions in CTR or is an independent organization. Glenn stated that he did not recognize the term. (p. 46)
- o Waxman asked about CTR accounts known as Special Account Number 5 and Special Account Number 4. He wanted to know whether those accounts supported

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scientific research and who controlled each account. He also asked Glenn to provide a list of the individuals who received funding from these accounts, the amount of funding and the purpose of funding. Glenn agreed to do so, although he also said that he had no knowledge regarding either account. Waxman informed him that Special Account Number 5 appeared to be a lawyer-administered special projects fund, but said he would know more when Glenn submits the information requested. (pp. 68-69)

**K. Public Relations Charge**

- o Throughout the hearing, Waxman, Synar and Wyden all stressed that the CTR is a "public relations shop, masquerading as a national cancer institute." (p. 43)

**1. Hill and Knowlton Documents**

- o Waxman and Synar questioned Glenn extensively about the link between Hill and Knowlton and the Council on Tobacco Research. Waxman referred to a set of Hill and Knowlton documents, written between 1954 and 1956, that were the subject of a staff report released the morning of the hearing. Waxman alleged that Hill and Knowlton helped the industry create the CTR in response to the results of a Sloan-Kettering study released in 1953. (A copy of that report was presented as Ex. 1.) To support this allegation, Waxman introduced Ex. 4, a "frank statement" issued by the major tobacco companies in 1954. Excerpts of that statement were also displayed in chart form. (p. 16)
- o Waxman questioned Glenn about a December 15, 1953 meeting at which the CEOs of the major tobacco companies agreed that "what is needed is not more science or research, but a public relations campaign to counter the mounting evidence of the adverse health effects of smoking." Waxman introduced a memorandum written by Bert C. Goss, of Hill and Knowlton, memorializing that meeting. (Ex. 2) (p. 17)
- o Waxman argued that the CTR "was not thought up by scientific researchers who perceived a need to know more about health effects of tobacco. It was dreamt up by the public relations experts who perceived the need to calm public fears." As

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evidence, he introduced a Hill and Knowlton memorandum recommending that the CEOs create CTR for "explicitly public relations, not scientific purposes." That memorandum, entitled "Preliminary Recommendations for Cigarette Manufacturers," was written on December 24, 1953. (This was introduced as Ex. 3.) Waxman claimed that Timothy V. Hartnett, former chairman of the CTR, received a copy of this memo. (pp. 17, 22)

- o Waxman and Synar both assailed the close ties between CTR and Hill and Knowlton. Both referred to a CTR budget, introduced as Exhibit 10, that indicated that CTR employed 23 public relations experts from Hill and Knowlton in 1954 (its first year of operation) and 35 public relations experts from Hill and Knowlton in 1955 (its second year of operation). (pp. 18, 26)

## 2. Other Allegations Regarding CTR's Public Relations Function

- o Wyden cited Dorothea Cohen's remark that the CTR is "just a lobbying thing." According to Glenn, Cohen suffers from multiple sclerosis, a disease with mental, as well as physical, effects. He said that Cohen called the CTR after making her statement to the press and tearfully apologized. Wyden asked Glenn to document her repudiation. (p. 43)
- o Waxman claimed that Brown & Williamson documents cited in a May 26, 1994 Los Angeles Times article refer to the CTR as a solution to a major research dilemma for the industry. According to the article, the CTR permitted the manufacturers to know the "state of the art" and, at the same time, avoid the "risk of having in-house work turn sour." In Waxman's view, the article proved that the companies use CTR in order to have "deniability for that research which could come back to haunt them in lawsuits." (pp. 50-51)
- o Waxman claimed the Council also "turn[ed] obscure research findings that were favorable to the tobacco industry into headline news around the country." For example, Ex. 13 describes a CTR effort to get a report that was issued by a public health official in New Zealand and reported in a British medical journal published in U.S. newspapers. Waxman also claimed that the CTR commissioned freelance authors to write favorable

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articles about cigarettes. (As evidence of this charge, he referred to Ex. 9.) (pp. 18-19)

3. Evidence that CTR is not a Public Relations Organization

- o Glenn told Bliley that, during his tenure, CTR has not had a public relations function; he said that the purpose of CTR is, and always has been, support for scientific research. Glenn told Bliley that other funding organizations, e.g., the American Cancer Society, the American Heart Association, have PR functions. (p. 53)
- o Bliley argued that the organization was intended "to sponsor genuinely objective research and to bring to public attention the fact that there is now no conclusive proof that cigarette smoking is a cause of lung cancer and other serious problems of human health." As evidence, he introduced Ex. 8, a Hill and Knowlton memo, dated July 31, 1954. That memo described the Tobacco Industry Research Committee (CTR's former name) as an industry group "directed to sponsoring and financing research into all phases of tobacco use and health." (p. 54)
- o Bliley quoted Joanne Shellenbach, of the American Cancer Society in New York, who described the CTR as legitimate. In her words, "we are very critical of the tobacco industry in terms of their advertising practices and many other things that they do, but here is an area [the CTR] where they seem to be doing something by the book and promulgating good research, so I can't criticize them across the board." Her remarks appeared in an article published in the July 1985 edition of the "New York State Journal of Medicine. (p. 22)

L. Smoking and Health

- o Wyden told Glenn he was virtually alone in his views that smoking does not cause cancer and smoking is not addictive. Glenn said that many scientists agree that no cause and effect relationship has been demonstrated between smoking and cancer. According to Glenn, a causal relationship is a one-on-one proposition, e.g., if you expose someone to the tubercle bacillus and they get tuberculosis, that is cause and effect. He also told Wyden that he does not accept the causal relationship between tobacco use and lung

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cancer. He acknowledged that the risk factors of smoking are well-known. (pp. 40-43)

- o Glenn admitted telling patients they ought to stop smoking if they have a disease for which smoking is a known risk factor. As a general matter, Glenn said that people should have enough information to make a free choice about smoking. He also said that 93% of people who smoke never develop lung cancer problems; however, 80% of the people who die of lung cancer have been smoking. (pp. 45-45)
- o Synar asked Glenn whether he would discourage his grandchildren from smoking. Glenn equivocated but said "I have told my children and I would tell my grandchildren that smoking is a risk factor for a number of diseases. I'd also tell them it's an expensive habit." He said he would not tell them what to do but said he would tell them that if he were given the facts about smoking today, he would choose not to smoke. (pp. 57-58)
- o According to Glenn, the industry and the CTR freely acknowledge the risk factor of smoking. He said that smoking is a risk factor for lung diseases, cardiovascular diseases, perhaps, or many things we don't even know about yet. The goal is to find out why the cell goes wrong. For example, 93% of smokers never develop any lung disease, 7% do. The CTR is trying to understand why there is such a vast discrepancy, why some people escape this injury completely. (p. 42)

**M. Litigation**

- o Glenn told Greenwood that the CTR had been a defendant in a number of suits claiming that the industry deliberately hid or distorted smoking dangers, but never had any adverse findings entered against it. In Cipollone, he said, the court found that the CTR's activities were essentially irrelevant. (pp. 34-35)
- o Glenn stated that the 1,500 "secret CTR documents" referred to by the press in connection with the Haines case do not exist. According to Glenn "the 1,500 documents must belong to somebody else because they certainly didn't belong to us." Waxman and Glenn had a lengthy colloquy concerning the whereabouts and identity of the 1500 documents. Waxman was particularly interested in how Glenn

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could say with certainty that the CTR did not have 1500 unidentified documents. Glenn said that he had accepted the reassurance of counsel on this issue. Glenn offered to review the documents (if they are located) and tell the Committee whether each is or is not a CTR document. Waxman accepted the offer. He also accused Glenn of stonewalling him and being unwilling to cooperate in getting the documents. Waxman told Glenn that he would submit more questions about this issue to Glenn for the record. He also said that there might need to be an additional hearing on this point. (pp. 35, 62-68)

N. Concluding Remarks

- o Waxman emphasized the public relations aspects of CTR and noted that Glenn had acknowledged that the tobacco companies and/or their lawyers selected and controlled the special projects. According to Waxman, this painted a picture of "public relations masquerading as science." (p. 69)
- o Waxman read a letter written in 1990 in response to a group of fifth graders who wanted information about the health risks of smoking. (Ex. 15) The letter was from the R.J.R. Tobacco Company to the principal of Willow Ridge School in Amherst, New York. According to the letter, the tobacco industry established the Council for Tobacco Research "in a sincere attempt to determine what harmful effects, if any, smoking might have. . . ." In Waxman's view, the letter demonstrated how the tobacco industry uses the Council for public relations purposes. (p. 70)

IV. DOCUMENT REQUESTS

For your convenience, all of the document requests referred to in this memorandum are summarized below. A few of the requests appear in this section for the first time.

- o Waxman asked Glenn to submit to the committee the actual dollar amounts CTR received from each company in 1994. He also asked for all past budgets and the share each company paid for each year of the organization's existence.
- o Waxman asked Glenn to provide the past and present personnel roster with divisions by areas of job

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responsibility for each year from 1954 to the present.

- o Waxman requested the following documents concerning special projects: (1) a list of all the special projects and a copy of the research results; (2) any correspondence between CTR and the tobacco companies and/or the researchers regarding any of these special projects; (3) the dollar amount spent on each of the special projects; (4) the itemization of whether and where each special project was published, or if it was published at all; and (5) any other documents in your possession related to special projects.
- o Waxman asked Glenn to provide a list of the individuals who received funding from Special Accounts 4 and 5, the amount of funding received by each person and the purpose of funding.
- o Wyden asked Glenn to document Dorothea Cohen's repudiation of the statement she gave the Wall Street Journal.
- o Waxman asked Glenn to provide information concerning the percentage of CTR funds that went to projects directly relevant to the health hazards of smoking for each past year.
- o Synar instructed Glenn to provide copies of the papers published by the Nobel Prize winners in the area of tobacco and how it affects health for the record. (Due to a disagreement between Glenn and Synar as to whether fundamental research into basic cellular and molecular biology is tobacco and health related or not, it was unclear whether Glenn was obligated to provide these papers.)
- o Bliley asked Glenn to submit a list of all publications and presentations that are believed to have resulted from CTR's special projects. Waxman then asked for a list of all the research funded under the special projects.
- o Greenwood asked Glenn to submit copies of letters sent to grant recipients.
- o Greenwood asked Glenn to submit a copy of the Microbiological Associates' contract.

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- o Synar requested all reports and studies with respect to nicotine and its addictiveness. Waxman asked Glenn to provide details of all studies that showed nicotine is habituating and also the studies themselves.
- o Synar asked Glenn to make available "all the materials that are central to this hearing prior to '87 for subcommittee review." (p. 56) Synar confirmed that he wanted all materials.
- o Synar asked Glenn whether he would freely provide to the FDA any studies that CTR conducted or funded on nicotine or other ingredients contained in tobacco. Glenn said yes.
- o Waxman asked Glenn for the 1500 CTR documents referred to by Judge Sarokin in the Haines case. Glenn explained that he was unable to provide them to CTR.

#### V. SUMMARY OF EXHIBITS

At your request, the exhibits presented at the hearing are summarized briefly below.

- o Exhibit 1. Wynder, Graham and Croninger, "Experimental Production of Carcinoma with Cigarette Tar," 13 Cancer Research 855 (1953). This article summarizes the research conducted at the Sloan-Kettering Institute concerning possible carcinogenic agent(s) within tobacco tar.
- o Exhibit 2. This is a Hill and Knowlton document dated December 15, 1953, summarizing a meeting with the presidents of the leading tobacco companies. The memo is entitled "Background Material on the Cigarette Industry Client" and is signed by Bert C. Goss. The memo indicates that "current plans are for Hill and Knowlton to serve as the operating agency of the companies, hiring all the staff and disbursing all funds." (p. 4)
- o Exhibit 3. This is a Hill and Knowlton document dated December 24, 1953. It is entitled "Preliminary Recommendations for Cigarette Manufacturers" and recommends the formation of a committee called the "Tobacco Research Committee."

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- o Exhibit 4. This is a reprint of an advertisement that appeared in the New York Times (and 448 other newspapers) on Monday January 4, 1954. It is entitled "A Frank Statement to Cigarette Smokers" and is signed by the presidents of some 14 tobacco companies and tobacco growers associations. According to the statement, the companies and growers "accept an interest in people's health as a basic responsibility, paramount to every other consideration in our business. . . . The fact that cigarette smoking today should even be suspected as a cause of a serious disease is a matter of deep concern to us."
- o Exhibit 5. This is apparently a Hill and Knowlton document dated January 15, 1954. It is entitled "Progress Report" and discusses the impact of the advertisement included as Exhibit 4 (i.e., "A Frank Statement to Cigarette Smokers").
- o Exhibit 6. This is a Hill and Knowlton memorandum to the Tobacco Industry Research Committee ("TIRC") dated May 3, 1954. The memorandum concerns a TIRC booklet entitled, "A Scientific Perspective on the Cigarette Controversy," which the memo says was released on April 14, 1954. Apparently, the booklet was some sort of white paper summarizing then-available opinions on cigarettes and lung cancer.
- o Exhibit 7. This is a Hill and Knowlton document dated June 21, 1954. It is entitled "Public Relations Report and Recommendations for Tobacco Industry Research Committee." Among other things, the memo states that the Main Committee "now has the basis needed for carrying on a long-range plan of public relations activities aimed at establishing the TIRC in the public mind as a constructive force in scientific research."
- o Exhibit 8. This is a memorandum from Hill and Knowlton to Timothy V. Hartnett, Chairman of the Tobacco Industry Research Committee, summarizing activities through July 31, 1954. The exhibit includes a cover memo that

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identifies the accompanying memo as highly confidential and instructs the reader not to place it in any files. According to the memorandum, "the wisest course of action would be for the industry to find out, through objective research, what truth there was, if any, in the charges being made against it. . . . The agreed-upon approach was to sponsor genuinely objective research and to bring to public attention the fact that there is now no conclusive proof that cigarette smoking is a cause of lung cancer or other serious problems of human health." (pp.1-2)

The memo discusses various aspects of the TIRC's start-up. Initially, TIRC had no headquarters and no staff; Hill and Knowlton provided a working staff and temporary office space. The Committee's first full-time chairman was Timothy V. Hartnett, retiring president of Brown & Williamson Tobacco Corporation.

- o Exhibit 9. This is a Hill and Knowlton memorandum, dated October 7, 1954, summarizing TIRC's information activities for August and September, 1954. According to the memo, it provides "a summary of recent major public relation projects for the TIRC covering August through September."
- o Exhibit 10. This is a memo from John W. Hill to Timothy V. Hartnett, dated November 24, 1954. It concerns the proposed TIRC budget for 1955. According to the memo, the budget provides for the use of all or part of the time of 35 different Hill and Knowlton staff members during 1955. It compares this to the 23 full or part time Hill and Knowlton staff people accounted for in TIRC's 1954 budget. The attachments include a table showing "Budget v. Expenditures and Commitments" as of December 31, 1954, a side-by-side comparison of the 1954 budget and estimated expenditures for 1955 and a Proposed Budget for 1955.
- o Exhibit 11. This is a Hill and Knowlton document, dated April 28, 1955. It is entitled "Public Relations Report to the

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Tobacco Industry Research Committee" and summarizes the Committee's activities to date. It also offers suggestions for future activities.

- o Exhibit 12. This is a memo written by Carl Thompson on May 25, 1955. It seems to be addressed to Richard W. Darrow. The memo discusses preparations for a June 6 presentation of the second Hammond-Horn report in Atlantic City.

- o Exhibit 13. This is a Hill and Knowlton document, written on February 14, 1956. It is entitled "Public Relations Report to the Tobacco Industry Research Committee" and includes the following paragraph:

our public relations efforts will continue to be directed toward: (a) keeping the press well informed of the balancing aspects of the situation as new attacks arise and (b) increasing the prestige of TIRC's own efforts by showing that TIRC is helping to gain the needed facts through adequately financed and carefully plan scientific research.

(This document is missing page 3.)

- o Exhibit 14. This is a Hill and Knowlton memorandum, dated July 19, 1956. It is written to Timothy V. Hartnett and concerns "Conferences with Life and Reader's Digest, July 17-18, 1956."
- o Exhibit 15. This is a letter dated January 11, 1990 from R. J. Reynolds Tobacco Company to the Principal, Willow Ridge School. It responds to concerns raised by fifth grade students regarding the use of cigarette brand names on children's toys and candy cigarettes. The fifth graders also asked about the controversies surrounding cigarette smoking. In the letter, signed by Jo F. Spach, Manager, Public Information, Public Relations Department, the company cited its support of the Council for Tobacco Research as evidence of its concern about the possible impact of smoking on health.

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- o Exhibit 16. This is a series of tables entitled "CTR Special Projects." Each table lists the name of the researcher, the project title/description, the period for completing the project, the budget and the date the project was approved. These tables are all marked with plaintiff exhibit stickers. The tables appear to cover a number of different years (e.g., 1981, 1979).
- o Exhibit 17. This is a research brief for a documentary entitled "'Pack of Lies': A Panorama Special Investigation Into The Tobacco Industry." It is dated February 19, 1993. At the conclusion of the document it says that all "material must be checked prior to transmission."
- o Exhibit 18. This is a series of letters from researchers and scientists to attorneys associated with the tobacco industry. The exhibit includes the following letters: (1) a June 27, 1977 letter from Eleanor J. Macdonald to Don Hoel at Shook Hardy & Bacon; (2) a November 23, 1965 letter from Alvan R. Feinstein to Edwin J. Jacob at Cabell Medinger Forsyth and Decker; (3) an April 11, 1975 letter from Gerald E. McClearn to Edwin J. Jacob at Jacob & Medinger; (4) a June 10, 1974 letter from Joseph H. Ogura to William W. Shinn of Shook Hardy & Bacon; (5) a July 20, 1972 letter from H. Hugh Fudenberg to Edwin Jacob of Lauterstein & Lauterstein. The exhibit also includes an unidentified budget request for the period October, 1977 through September, 1978 and reprints from the September 1992 issue of the American Journal of Public Health (apparently responding to Exhibits 19 and 20, described below).
- o Exhibit 19. This consists of an article by Kenneth E. Warner, entitled "Tobacco Industry Scientific Advisors: Serving Society or Selling Cigarettes?" The article appeared in 81 American Journal of Public Health 839 (1991).
- o Exhibit 20. This consists of an article by Cummings, Sciandra, Gingrass and Davis, entitled "What Scientists Funded by the Tobacco Industry Believe About the Hazards of

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Cigarette Smoking." This article also appeared in 81 American Journal of Public Health 894 (1991).

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